

**The Commonwealth of Massachusetts**  
Public Employee Retirement Administration Commission  
John W. McCormack Building, Room 1101  
One Ashburton Place Boston, MA 02108  
(617) 727-9380

MEMORANDUM

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: Chapter 17 of the Acts of 1997, An Act Relative To The Annual Cost Of Living Adjustments For Retirees

DATE: June 19, 1997

On June 6, 1997 Governor Weld signed into law Chapter 17 of the Acts of 1997, An Act Relative To The Annual Cost Of Living Adjustments For Retirees. This statute reforms the method for granting Cost of Living Adjustments (COLA's) to public pension retirees in the Commonwealth. In short, the legislation provides that the decision whether to grant a COLA will be made by the Legislature and Governor for state and teacher retirees and by local decision makers for county, municipal, district, authority and other retirees. In addition the base on which the COLA will be calculated has been increased from \$9,000 to \$12,000.

Although the main focus of the legislation is COLA, the proposal incorporates provisions from other pending legislation which delays the implementation of the Early Intervention Program aspects of chapter 306 of the acts of 1996 until 1/1/98. PERAC following consultation with the Massachusetts Association of Contributory Retirement Systems, the MMA and the State and Teachers Retirement Boards is directed to file a study of the program with recommended statutory changes by 10/1/97.

PERAC's actuary is required to submit an annual report to the Legislature on the computation of the increase in the Consumer Price Index determined by the Federal Commissioner of Social Security. The report must include a "statement that such an increase in the Consumer Price Index ... requires a cost of living increase... equal to the percentage increase in the Consumer Price Index or three per cent whichever is less."

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The report will be considered by the Legislature and if the Legislature and the Governor approve a COLA, all eligible state and teacher retirees and beneficiaries will receive a COLA commencing on July 1 at the percentage approved.

If a city, town or county system accepts the provisions of the section 103 of chapter 32, the Commission must send the report and a copy of the state legislation, if any, to each such system on April 1 of each year. On an annual basis, if the retirement board votes to adopt the COLA recommended by the report, eligible members and beneficiaries of the system will receive a COLA commencing in July of that year. The Board may elect not to pay a COLA if it determines that the COLA as recommended will substantially impair the system's funding schedule.

The provisions of section 103 are accepted by vote of the retirement board subject to approval of the "legislative body". "Legislative body" is the town meeting in a town, city council in a city, county retirement board advisory council in a county, district members in a district and the governing body of an authority. A decision to accept cannot be revoked.

If the provisions of section 103 are accepted, the system in consultation with PERAC will establish a funding schedule designed to reduce the additional liability resulting from acceptance to zero by a date approved by PERAC.

PERAC must conduct a study of the costs associated with the legislation and file a report to each board and county commissioners, city councils, boards of selectmen, municipal councils, governing bodies of authorities and district committees. The report must be filed with these entities and the Joint Committee on Public Service by 12/31/97.

The legislation establishes an increase in the minimum allowance under option d, section 101, and chapter 526 of the acts of 1963 in an amount equal to "the cumulative percentum of change in the cost of living resulting from the determination of the life actuary." Only in the event that a COLA is granted by the Retirement Board does an increase take place.

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This legislation becomes effective 90 days from the date of the Governor's signature. Thus it will become effective on September 4, 1997. **However, it is advised that retirement boards are not required to implement Early Intervention Programs in the interim. To do so would not be prudent in light of the change in the implementation date and the possibility that, as a result of the PERAC submission in October, further legislative action may modify the EIP statute. It is also suggested that the prudent course of action is to complete a fiscal analysis of the impact of accepting the COLA provisions on retirement system finances before acting on that option.**

Enclosed is a copy of the signed legislation and a section by section analysis of its provisions.

/sjk  
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Section 1. The PERAC Actuary must file with the Legislature, every January, a report on the increase in the U.S. Consumer Price Index in the previous year. The report must include a statement that the increase requires a cost of living increase for retirees and other beneficiaries equal to the Consumer Price Index increase or 3% whichever is less.

Section 2. This section amends the provisions of Chapter 32, section 22D relative to retirement system funding schedules. PERAC is authorized to devise funding schedules for retirement systems which accept the COLA option which deviate from the requirement to amortize all system liabilities by 1/1/2028.

Section 3. Following filing by the PERAC Actuary of the report outlined in section 1, the Legislature determines if a COLA is required and establishes the percentage increase. If a COLA is granted every state and teacher retiree and beneficiary receiving a retirement allowance on June 30 of the prior fiscal year will receive a COLA. The retirement allowance is increased by the amount of the COLA and that becomes the retirement allowance for future years.

Section 4. Repeals provisions authorizing reductions in retirement allowances if the Cost of Living decreases.

Section 5. Increases the base on which COLA's are calculated from \$9,000 to \$12,000.

Sections 6 and 7. Same as Section 4 and technical correction regarding the identity of actuary.

Section 8. This section establishes the process for granting COLA's at the local level. Its provisions apply only to COLA's granted by systems other than the State and Teacher's Systems.

Section 8, Paragraph (a). Systems other than the State and Teachers, by accepting section 103 of Chapter 32, may elect to establish COLA's under that section. Only systems which have established a funding schedule pursuant to subdivision (6A) of section 22 or pursuant to section 22D of chapter 32 may adopt section 103. The acceptance of section 103 will take place by vote of the retirement board subject to approval of the legislative body. Legislative body is defined as follows:

1. in a city, the city council in accordance with its charter;
2. in a town, the town meeting;
3. in a county, the county retirement board advisory council;
4. in a district, the district members; and
5. in an authority, the governing body.

Acceptance will be in effect as of the date a certification of the votes is filed with PERAC. A decision to accept cannot be revoked.

Section 8, Paragraph (b). The retirement board of any system which accepts Section 103 shall, in consultation with PERAC, establish a funding schedule designed to amortize the additional pension liability resulting from the acceptance by a year approved by PERAC. The board must file its schedule with the Joint Committee On Public Service every three years .

Section 8, Paragraph (c). On April 1 of each year PERAC will send the report made to the Legislature as required by section 1 of the legislation to each board that has accepted section 103. The retirement board is to review the report and may elect not to pay a COLA if it determines that to do so would substantially impair the system's funding schedule. Within 30 days of any such decision, the board must file notice of its election not to pay a COLA and analysis of the impact on the funding schedule with PERAC. In the event the board decides to grant a COLA it must notify PERAC within 30 days of its action. The retirement allowance of all retirees and beneficiaries who were receiving allowances on June 30 of the previous fiscal year will be increased by the percentage set forth in the PERAC report. For example:

1. John Smith receives a retirement allowance on June 30, 1997.
2. John Jones retires on August 15, 1997, receives his first check on September 10, 1997.
3. Chapter 103 is adopted and the retirement board authorizes a COLA in May 1998.
4. John Smith receives a COLA; John Jones does not receive a COLA.

The retirement allowance plus the COLA shall become the retirement allowance for future years.

Section 8, Paragraph (d). Incorporates existing statutory language regarding the implementation of the COLA in the event it is not administratively possible to provide for inclusion of the COLA in the July payment. In such a case, the COLA will be incorporated into the August or September payment.

Section 8, Paragraph (e). Provides that COLA payments will become part of the fixed retirement allowance for future years.

Section 8, Paragraph (f). Restates the provisions of paragraph (d) with a reference to "subsection (c)" rather than "this section".

Section 8, Paragraph (g). Increases the supplemental payments to a spouse receiving a minimum allowance under Chapter 32, Section 12(2)(d) or Chapter 32, Section 101, or under Chapter 526 of the Acts of 1963 to any spouse, child or children under section 12B in an amount equal to the change in cost of living resulting from the determination by the actuary. Only in the event that a COLA is granted by the Retirement Board does an increase take place.

**Section 9. Delays the date for implementation of the Early Intervention Program under Chapter 306 of the Acts of 1996 to January 1, 1998. PERAC, in consultation with the Massachusetts Municipal Association, the Massachusetts Association of Contributory Retirement Systems, the state board of retirement and the teachers board of retirement will study and evaluate the Early Intervention Program. PERAC is to file the results of the study and recommended legislative changes with the House and Senate Ways & Means Committees and the Committee on Public Service on or before October 1, 1997.**

Section 10. PERAC will analyze the costs and liabilities associated with adoption of section 103 for all systems on section 22(6A) or 22D funding schedules. On or before December 31, 1997, PERAC will file the results with the legislative body and the retirement board of each such system and with the joint committee on public service.